D.B. CIVIL CONTEMPT PETITION NO. 189/2004
(Sampat Lal Vs. Mr. O.P.Saini & ors.)

DATE OF ORDER : 20.07.2006

HON'BLE MR. JUSTICE N.N.MATHUR
HON'BLE MR. JUSTICE R.P.VYAS

Mr. P.P.Choudhary, for the petitioner.
Mr. N.M.Lodha, Additional Advocate General.

The instant contempt petition has been filed against Shri O.P.Saini, Commissioner, Panchayati Raj Department, Government of Rajasthan, Shri Kalu Lal Gurjar, Minister for Panchayati Raj and Shri Banwari Lal Bairwa, Vikas Adhikari, Panchayat Samiti, Mandal, District – Bhilwara.

The appellant was elected as Pradhan of the Panchayat Samiti, District, Bhilwara on 11th February, 2000. He was suspended by the order of the State Government dated 12th February, 2004 pending enquiry. He was blessed with a female child in the year 1997 and prior to that he was already blessed with two daughters, as such, he was disqualified to hold the post of Pradhan. An enquiry was initiated in accordance with the provisions of Section 38(1) of the Rajasthan Panchayati Raj Act, 1994. The petitioner challenged the order of suspension by way of filing a writ petition, which was dismissed by the order of the learned Single Judge dated 27th April, 2004. However, the

Division Bench allowed the special appeal by order dated 11th August, 2004 and set aside the order of suspension dated 12th February, 2004. The Court ordered as follows:

> "Consequently, the special appeal is allowed. The order of the learned Single Judge dated 27th April, 2004 is quashed and set aside. The writ petition is partly allowed. The order dated 12.2.2004 (Annex.P/3) suspending the appellant from the office of Pradhan, Panchayat Samiti, Mandal, District, Bhilwara is quashed and set aside. The appellant shall be reinstated forthwith on the post of Pradhan of the Panchayat Samiti, Mandal, District, Bhilwara. Any finding or observation in this judgment or by the learned Single Judge will have no reflection in the pending enquiry against the appellant."

In spite of the order of this Court, the petitioner was not reinstated. Thus, the instant contempt petition.

A reply to the contempt petition has been filed. It is submitted that the petitioner was suspended by order dated 12th February, 2004 pending enquiry. While the Division Bench set aside the order of suspension by judgment dated 11th August, 2004, the enquiry officer submitted the enquiry report dated 7.8.2004 to the Principal Secretary, Panchayati Raj Department, Government of Rajasthan on 13.08.2004. The enquiry officer found that as the petitioner was blessed with third child on 10.7.1997, he incurred disqualification. Thus, consequential

order was passed to remove the petitioner from the post of Pradhan. It is further stated that the petitioner himself has produced the order of this Court along with the application for reinstatement on 2nd September, 2004. He on his own joined the office of Pradhan on 6th September, 2004. The petitioner has also made certain allegations against the second respondent Shri Kalu Lal Gurjar, Minister for Panchayati Raj. It is alleged that the petitioner belongs to Indian National Congress Party and he effectively worked against the candidate of B.J.P. i.e. second respondent Shri Kalu Lal Gurjar during assembly election and, as such, under his instructions, respondent No.3 Shri Banwari Lal Bairwa, Vikas Adhikari, Panchayat Samiti, Mandal did not comply with the order of the High Court. The Minister for Panchayati Raj Department has filed affidavits denying the allegations.

We have heard learned counsel for the parties and perused the respective affidavits filed by the parties. The order of this Court dated 11th August, 2004 in terms directed the respondents to reinstate the petitioner forthwith, as such, it was obligatory on the part of the respondents to comply with the order of this Court without delay. There can be no excuse for non compliance. Surprisingly, the respondents have come out with a plea that just two days after the order of this Court, the enquiry was concluded and by the consequential order passed in the month of

September, 2004, the petitioner was removed from the post of Pradhan. A careful reading of the different affidavits gives an impression that for the political reasons, the respondents were avoiding to reinstate the petitioner. Since, the term of the petitioner as Pradhan is over, we do not want to carry the matter further. However, the manner in which the respondents Shri Kalu Lal Gurjar, Minister for Panchayati Raj and Shri Banwari Lal Bairwa, Vikas Adhikari, Panchayat Samiti, Mandal, District Bhilwara have acted, it has left an unpleasant impression on our mind. We hope and trust that persons like Shri Kalu Lal Gurjar holding a high public office of the Minister in a democratic set up will in future be more careful. Such persons are not expected to circumvent the judicial orders of petty benefits. Persons like Banwari Lal Bairwa are while discharging their official function are expected not act in a manner obliging persons of weight which may constitute offence of contempt of Court. If they do so, they do on their own perils.

In the peculiar facts of the case, we disposed of the contempt petition with the **'note of caution'**. Notices discharged.

(R.P.VYAS), J. **(N.N.MATHUR), J.**

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